

4599. Adulteration and misbranding of grapefruit. U. S. * * * v. 245 Boxes of Grapefruit. Consent decree of condemnation. Product ordered released on bond. (F. & D. No. 6918. I. S. No. 3206-L. S. No. W-68.)

On or about Oct. 11, 1915, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 245 boxes of grapefruit, remaining unsold in the original unbroken packages at Denver, Colo., alleging that the article had been shipped and transported from the State of Florida into the State of Colorado, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled: "This fruit is selected & carefully packed under instructions furnished by U. S. Government. Dr. P. Phillips, Orlando, Fla. P and D Grower Packer & Shipper."

Adulteration of the article was alleged in the libel for the reason that the grapefruit was green and immature, and was shipped in a car in which the temperature was high and in which was an abundance of moisture for the purpose and with the intent of bringing about a condition which would sweat said grapefruit and thereby cause a change in the color of the rinds thereof from green to yellow, by means of which sweating and the resultant change of color of the rinds of said grapefruit the inferiority thereof would be concealed.

Misbranding was alleged for the reason that said brands and labels contained on the boxes contained statements regarding the article, to wit, grapefruit, which were false and misleading in that said boxes purported to contain fruit carefully packed under instructions furnished by the United States Government, whereas, in truth and in fact, it was packed contrary to instructions furnished by the United States Government and the proper officers thereof, the same being packed while green in color and immature in quality.

On October 21, 1915, the Donaldson Fruit Co., the C. L. Arnett Fruit Co., The Lawrence-Hensley Fruit Co., and The Kelly Fruit Co., Denver, Colo., having filed their claims applying for the release of the grapefruit under bond, and having filed their stipulation that the libel might be taken as confessed and said claimants having executed a good and sufficient bond conditioned upon the performance by said claimants of all orders and decrees of the court, it was ordered that the product should be released to said claimants by the United States marshal.

On October 25, 1915, the court found that the United States of America was entitled to have the grapefruit condemned and ordered that the brand and label: "This fruit is selected and carefully packed under instructions furnished by United States Government" be obliterated, and that each box of grapefruit be branded and labeled: "Immature Grape Fruit. Colored by Sweating," and that each fruit be inclosed in a wrapper branded and labeled: "Immature Grape Fruit. Colored by Sweating," and that no portion of said grapefruit be sold or otherwise disposed of other than under said brand and label and that the owners and claimants of said grapefruit pay all the costs of the proceedings.

CARL VROOMAN, *Acting Secretary of Agriculture.*